

Person with Management or Control
Kids Club Early Childhood Learning Centres Pty Ltd
RE: Kids Club Rivett Early Learning Centre

Email: [REDACTED]

Dea [REDACTED]

Decision to issue Administrative Action RE: NOT-40562317

1. As you are aware, the ACT Regulatory Authority (the Authority), also known as Children's Education and Care Assurance, recently assessed a Notification (NOT-40562317) of an incident involving an unknown person interacting with a child through the fence at Kids Club Rivett Early Learning Centre SE-40012143 (the Service), operated by Kids Club Early Childhood Learning Centres Pty Ltd PR-40001605 (the Provider) on 30 July 2021.
2. Web addresses to the *Education and Care Services National Law (ACT) (the Law)* and the *Education and Care Services National Regulations 2011 (the Regulations)* are provided for your convenience at the end of this Decision.

Facts

3. On 3 August 2021, the Authority received a Notification (NOT-40562317) from the Provider, advising that the Provider had been advised that day of an incident involving an unknown man from the community giving a chocolate to a child [REDACTED] through the fence, whilst [REDACTED] as playing in the outdoor yard. Educator statements and correspondence were provided with the Notification. Refer Attachment A

Law

4. Relevant sections of the *Law* engaged by the notification are:

Section 165(1) of the *Law* - Offence to inadequately supervise children

The approved provider of an education and care service must ensure that all children being educated and cared for by the service are adequately supervised at all times that the children are in the care of that service.

Section 167(1) of the *Law* - Offence relating to protection of children from harm and hazards

The approved provider of an education and care service must ensure that every reasonable precaution is taken to protect children being educated and care for by the service from harm and from any hazard likely to cause injury.

Reasons

5. After consideration of all documentation submitted by the Provider, the Authority is satisfied, on the balance of probabilities, that there is sufficient evidence supplied with the notification to substantiate offences under sections 165(1) and 167(1) of the *Law*.

6. In deciding if compliance action should be taken, the Authority has considered all relevant information supplied by the Provider, including the Provider's actions to progress installation of privacy screening and to ensure supervision at the relevant area of the fence-line to mitigate the risk of similar incidents pending installation of the screening.

Decision

7. After careful consideration of all relevant information, the Authority has determined not to initiate statutory compliance action regarding the substantiated contravention of sections 165(1) and 167(1) of the *Law* but, rather, issue this Administrative Action to address the non-compliance.
8. This Decision is intended to bring to your attention the need to ensure that the Provider always meets its supervision obligations under the *Law*, and to ensure every reasonable precaution is taken to protect children from harm and any hazard likely to cause injury.
9. The Authority takes the opportunity to remind the Provider of National Quality Area 3 with regards to the type of screening which is intended to be installed.
10. This Decision will be recorded on your Service file and may also be considered in any future applications for approvals, amendments, or waivers. It may also be considered in determining the action to be taken, should further breaches of the *Law* or *Regulations* be found.

Legislation

11. The *Law* applies to you as an approved provider and any approved service that the Provider operates.
12. The *Law* is applied in the ACT by the *Education and Care Services National Law (ACT) Act 2011* <http://www.legislation.act.gov.au/a/2011-42/default.asp>.
13. The *Law* and *Regulations* can be viewed at:
<http://www.acecqa.gov.au/national-law>, and
<http://www.legislation.nsw.gov.au/#/view/regulation/2011/653>
14. If you have any queries regarding this Decision, please contact me at janine.fairburn@act.gov.au.

Yours sincerely



Janine Fairburn
Assistant Director
Children's Education and Care Assurance
Education and Care Regulation and Support
ACT Education Directorate

16 August 2021